IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SIXTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION NO : 13583 of 2004

Between:

1 Gaddam Komramma, W/o.(late) Bixapathy,
R/o.Madikonda village, Hanamkonda Mandal, Warangal Dist.
2 Gaddam Kumaraswamy, S/o.(Late) Bixapathy,
R/o.Madikonda village, Hanamkonda Mandal, Warangal Dist.

..... PETITIONERS

AND

1 The District Collector, Warangal.
2 The Mandal Revenue officer, Hanamkonda Mandal, Hanamkonda,

Warangal.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction or writ under Article 226 of the Constitution of India, more particularly one in the nature of writ of Mandamus declaring the action of the 2nd respondent in not accepting the application dated 5-7-2004 submitted by the petitioners for issuance of fresh Legal Heir certificate by including the name of the second petitioner, as a legal heir of late Gaddam Bixapathy, as bad, illegal, arbitrary and against the principles of natural justice and consequently direct the respondents to issue a fresh Legal Heir certificate by including the name of the second petitioner as a legal heir of late Gaddam Bixapathy.

Counsel for the Petitioners :MR.C.DAMODHAR REDDY

Counsel for the Respondent Nos.1 and 2 : GP FOR REVENUE

The Court at the stage of admission made the following :

ORDER:

The first petitioner is wife of one Bixapathi and second petitioner is her adopted son. They made an application on 5.7.2004 to the second respondent requesting to issue Legal Heir Certificate showing the names of the petitioners and the daughter of the first petitioner as Legal Heirs of Bixapathi. They allege that the Mandal Revenue Officer, Hanmakonda refused to accept the same stating that he cannot issue such certificate. Therefore, in this writ petition, petitioners seek a direction to the respondents herein to issue fresh Legal Heir Certificate.

The matter came up before this Court on 3.8.2004. The learned counsel for the petitioners sought adjournment. Again the matter came on 4.8.2004 and when the learned Assistant Government Pleader for Revenue (General) placed before this Court an unreported judgment of this Court in W.P. No.7430 of 2000 dated 1.2.2001 wherein it was held that the Mandal Revenue Officer is not competent to issue Legal Heir Certificate. Opposing the same, the learned counsel for the petitioners sought time till today to examine the matter. Today also time is sought. However, having regard to the judgment of this Court wherein it was laid down that the Mandal Revenue Officer cannot issue Legal Heir Certificate, the writ petition is liable to be dismissed. In W.P. No.7430 of 2000, it was held as under:

There is no provision of law under which the Mandal Revenue Officer could have exercised such power to decide as to who are the legal heirs of the deceased Prakash Rao. Neither the learned Government Pleader nor the learned counsel for the respondents could place any provision of law under which the Mandal Revenue Officer could have made enquiry into the matter for granting legal heir certificate. In the circumstances, I am of the considered opinion that the impugned order passed by the Mandal Revenue Officer suffers from incurable legal infirmity and jurisdictional error. The impugned order is liable to be set aside and the same is accordingly set aside.

The petitioners are given liberty to approach appropriate Authority like Administrator General or the Civil Court under Section 372 of the Indian Succession Act.

Giving liberty to do so, the writ petition is dismissed.

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Date : August 6, 2004. **V.V.S. RAO, J**

YS

Note:

Issue C.C. by

10.08.2004.

(B/o)

YS

ASSISTANT REGISTRAR

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SECTION OFFICER

To

1 The District Collector, Warangal.
2 The Mandal Revenue officer, Hanamkonda Mandal,

Hanamkonda, Warangal.

3 Two CCs to the Government Pleader for Revenue,

High Court Buildings, Hyderabad (OUT)

4 Two CD copies.